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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,650	11/19/2003	Dirk C. McLiesh	05793.3110	6445

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EXAMINER	
VEZERIS, JAMES A	

ART UNIT	PAPER NUMBER
3693	

MAIL DATE	DELIVERY MODE
01/08/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/716,650	MCLIESH ET AL.	
	Examiner	Art Unit	
	JAMES A. VEZERIS	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 December 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7, 9-12, 14-20, 22-25, 27-33, and 35-* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7, 9-12, 14-20, 22-25, 27-33, and 35-* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Response to Applicant's Arguments

1. Applicant's arguments with respect to claims 1-7, 9-12, 14-20, 22-25, 27-33, and 35-38 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections- 35 U.S.C. 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-7 and 9-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. In claims 1-7 and 9-12 a server is not enough to overcome the limits of Bilski since a server can be implemented in software.

4. In claims 14-20 and 22-25 a "component" can be read as software and therefore the claims can be read as computer code per se. Examiner recommends that applicant

specifically defines a component from what is within the specification inside of the claims.

Claim Rejections- 35 U.S.C. 103(a)

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-7, 11, 14-20, 24, 27-33, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Laddering Certificates of Deposit" by Jeremy Vohwinkle (Hereinafter "Laddering") in view of "CU rebates competitors' penalties" by Anonymous (Hereinafter "CU") in further view of "Discount brokers dangling lots of incentives" by Paul Delean (Hereinafter "Discount")

Regarding Claims 1, 14, and 27.

Laddering in view of CU in further view of Discount teach providing a second certificate of deposit to an investor having a first certificate of deposit, the method comprising:

Laddering teaches transferring the increased funds to the a second certificate of deposit having a rate of return greater than the first certificate of deposit. (See Laddering)

Laddering Fails to further teach receiving funds associated with the first certificate of deposit held with a first financial institution, the funds having been reduced by a penalty for closing the first certificate of deposit;

CU teaches receiving funds associated with the first certificate of deposit held with a first financial institution, the funds having been reduced by a penalty for closing the first certificate of deposit; (See CU)

Laddering fails to further teach increasing, by the second financial institution, the funds by a first amount based on the reduced funds due to the penalty;

Discount teaches increasing, by the second financial institution, the funds by a first amount based on the reduced funds due to the penalty; (See Discount)

It would have been obvious to one of ordinary skill in the art to include in the logic of Laddering the ability to reduce funds by a penalty for closing a CD and increase the funds by the penalty amount, as taught by CU and discount respectively, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same functions as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claims 2, 15, and 28.

Laddering further teaches providing an investor holding the second financial instrument an option to transfer the funds to a third financial instrument based on predetermined account criteria. (See Laddering)

Regarding Claims 3, 16, and 29.

Laddering further teaches the predetermined account criteria comprises a predetermined period of time. (See Laddering)

Regarding Claims 4, 17, and 30.

Laddering further teaches providing an investor holding the second financial instrument an option to change the terms of the second financial instrument based on predetermined account criteria. (See Laddering)

Regarding Claims 5, 18, and 31.

Laddering further teaches the predetermined account criteria comprises a predetermined period of time. (See Laddering)

Regarding Claims 6, 19, and 32.

Laddering further teaches third financial instrument has a rate of return greater than the second financial instrument. (See Laddering) Examiner notes Laddering allows for any rate of return, including a greater rate of return.

Regarding Claims 7, 20 and 33.

Laddering further teaches the second financial instrument and the third financial instrument are managed by the second financial institution. (See Laddering) Examiner notes Laddering allows for the use of any financial institution including maintaining the same financial institution.

Regarding Claims 11, 24, and 37.

Laddering fails to further teach the penalty is an early withdraw penalty.

Cu teaches the penalty is an early withdraw penalty. (See CU)

It would have been obvious to one of ordinary skill in the art to include in the logic of Laddering the ability to reduce funds by an early withdrawal penalty for closing a CD, as taught by CU, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same functions as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

7. Claims 9, 10, 22, 23, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laddering in view of CU in further view of Discount in further view of Official Notice.

Regarding Claims 9, 22, and 35.

Laddering fails further teach at least one of receiving the funds, increasing the funds, and transferring the increased funds further comprises communicating over a network.

Official Notice is taken that it would be obvious to one skilled in the art at the time of the invention to receive the funds, increase the funds, and transfer the increased funds over a network.

It would have been obvious to one of ordinary skill in the art to include in the logic of Laddering the ability to transfer, receive and increase funds over a network, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same functions as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination

were predictable.

Regarding Claims 10, 23, and 36.

Laddering fails further teach communicating over the network further comprises communicating with a user device on the network, the user device being located in at least one of a home, an office, a store, a retail center kiosk, and an office of a financial institution.

Official Notice is taken that it would be obvious to one skilled in the art at the time of the invention to communicate with a user device on the network, the user device being located in at least one of a home, an office, a store, a retail center kiosk, and an office of a financial institution.

It would have been obvious to one of ordinary skill in the art to include in the logic of Laddering the ability to transfer, receive and increase funds over a network, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same functions as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

8. Claims 12, 25, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laddering in view of CU in further view of Discount in further view of "Viking Saving" (Hereinafter "Viking").

Regarding Claims 12, 25, and 38.

Laddering fails to further teach the penalty is an amount equal to between three and six months interest on the first financial instrument.

Viking teaches the penalty is an amount equal to between three and six months interest on the first financial instrument. (See Viking)

It would have been obvious to one of ordinary skill in the art to include in the logic of Laddering the ability to charge a penalty of between three and six months, as taugh in Viking, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same functions as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. VEZERIS whose telephone number is (571)270-1580. The examiner can normally be reached on Monday-alt. Fridays 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

/JAMES A VEZERIS/
Examiner, Art Unit 3693

1/5/2009